



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/905,531	07/13/2001	Ellis Junior Smith	DEE6270P0090US	3484

7590 05/14/2003  
POLIT & ASSOCIATES, LLC  
3333 WARRENVILLE ROAD  
SUITE 520  
LISLE, IL 60532

EXAMINER

LOPEZ, FRANK D

ART UNIT	PAPER NUMBER
----------	--------------

3745

DATE MAILED: 05/14/2003

9

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/905,531

Applicant(s)

SMITH ET AL.

Examiner

F. Daniel Lopez

Art Unit

3745

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 February 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,2,4-13 and 17-36 is/are pending in the application.
- 4a) Of the above claim(s) 29 and 34 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-13,17-28,30-33,35 and 36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

***Response to Amendment***

Applicant's arguments filed February 25, 2003, have been fully considered but they are not deemed to be persuasive.

Applicant's arguments with respect to many of the claims have been considered, but are deemed to be moot in view of the new grounds of rejection. The new grounds of rejection are necessitated by the added limitations that combine limitations from different claims, not previously combined.

Applicant argues that Jenkins has separate control levers for front and back implements; but does not go into detail as to why this does not meet the limitations of the claims. It is assumed that applicant is suggesting that the separate control levers are controlling separate control valves. It is understood, based on the specification as a whole, that each of the control levers controls the same set of control valves; otherwise, there is no need for the diverter valves (36'-38'). Therefore, it would appear that the use of separate control levers does not effect the rest of the disclosure, which meets the limitations of the claims.

Applicant argues that Balzer only has one implement. Applicant is mistaken. The vehicle of Balzer has a bulldozer blade, with a ripper shank at each end (column 1 line 58-60); but goes on to say that there can be other types of bulldozers or rippers (column 1 line 61-63); and also indicates that the vehicle can have a bulldozer, with rippers at the rear (column 1 line 27-32). Taken as a whole, it is clear that Balzer discloses a vehicle with a variety of attachments, including one with a bulldozer at the front end and rippers at the rear end, which meets the limitations of the claims.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

***Election/Restrictions***

Newly submitted claims 29 and 34 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: the original claims (e.g. claim 3) belong to species I, which is a utility vehicle having

front and rear mounted implements; whereas claims 29 and 34 belong to species II, which is a utility vehicle having front and mid- mounted implements.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 29 and 34 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

***Claim Rejections - 35 USC § 102***

Claims 11, 13, 17, 18, 20 and 30 are rejected under 35 U.S.C. § 102(b) as being clearly anticipated by Jenkins.

Claims 1, 4, 9-11, 18, 20-22, 27, 30 and 31 are rejected under 35 U.S.C. § 102(b) as being clearly anticipated by Balzer.

***Claim Rejections - 35 USC § 103***

Claims 1, 4 and 8 are rejected under 35 U.S.C. § 103 as being unpatentable over Jenkins in view of Balzer. Jenkins discloses a hydraulic system for a utility vehicle comprising a source of pressurized hydraulic fluid connected to a diverter valve selectively positioned to connect the source to either a first front mounted loader type implement (5 (via e.g. cylinder 11)), or a second rear mounted implement (17 (via e.g. cylinder 4)); a control actuator, being a control lever mechanically connected to the diverter valve; and a flow lever positionable to control flow between the source of pressurized fluid to the diverter valve; but does not disclose that the control actuator is a control switch, with the control switch carried on the lever.

Balzer teaches, for a hydraulic system for a utility vehicle comprising a source of pressurized hydraulic fluid connected to a diverter valve selectively positioned to connect the source to either a first (e.g. 12) or second (e.g. 14) hydraulic implement; with a lever positionable to control flow between the source of pressurized fluid to the diverter valve; that the control actuator is a control switch, with the control switch carried on the lever (e.g. column 2 line 60-64).

Since the control actuator of Jenkins and Balzer are functionally equivalent in the implement control art; it would have been obvious at the time the invention was made to one having ordinary skill in the art to replace the control lever mechanically connected to the diverter valve of Jenkins with a control switch carried on the flow lever, as taught by Balzer, as a matter of engineering expediency.

Claims 28, 32, 33, 35 and 36 are rejected under 35 U.S.C. § 103 as being unpatentable over Jenkins in view of Applicant's admitted prior art. Claims 25 and 26 are rejected under 35 U.S.C. § 103 as being unpatentable over Jenkins in view of Balzer, as applied to claim 1 and 4, respectively, above, and further in view of Applicant's admitted prior art. The modified Jenkins discloses all of the elements of claims 25, 26, 28, 32, 33, 35 and 36, but does not disclose that the second implement is one of a blade, a mower deck, a cultivator and a tiller.

Applicant's admitted prior art teaches, for a utility vehicle having a front mounted loader and a rear mounted implement; that the rear mounted implement can be one of a cultivator or rear blades (e.g. page 1 line 10-11).

Since rear mounted implements of Jenkins and Applicant's admitted prior art are interchangeable in the utility vehicle art, it would have been obvious at the time the invention was made to one having ordinary skill in the art to exchange the rear mounted implement of Jenkins with a rear mounted cultivator, as taught by Applicant's admitted prior art, as a matter of engineering expediency.

Claims 2, 7, 19 and 24 are rejected under 35 U.S.C. § 103 as being unpatentable over Balzer in view of Hein et al. Balzer discloses a hydraulic system for a utility vehicle comprising a source of pressurized hydraulic fluid connected to a diverter valve selectively positioned to connect the source to either a first (e.g. 12) front mounted or second (e.g. 14) rear mounted hydraulic implement (see column 1 line 26-33, 58-63); wherein the diverter valve includes a pilot operated valve (e.g. 20) connected to a solenoid operated (52) pilot valve (49), operated by a control switch (column 2 line 58-64); that the pilot valve is solenoid operated, and electrically connected to the control

Art Unit: 3745

actuator; but does not disclose that there are a plurality of pilot operated hydraulic valves connected to the pilot valve; or that the plurality of pilot operated valves are cartridge valves held within a valve housing.

Hein et al teaches, for a a hydraulic system for a utility vehicle comprising a source (14) of pressurized hydraulic fluid connected to a diverter valve connected to a pilot valve (40) and selectively positioned to connect the source to either a first (scraper body B) or second (scraper body C) hydraulic implement; that the diverter valve includes a plurality of pilot operated valves (e.g. 28, 30) connected to a pilot valve.

Since the diverter valves of Hein et al and Balzer are functionally equivalent in the utility vehicle art; it would have been obvious at the time the invention was made to one having ordinary skill in the art to diverter valve of Balzer with a diverter valve which includes a plurality of pilot operated valves connected to a pilot valve, as taught by Hein et al, as a matter of engineering expediency.

Official notice is taken that it is well known to make valves cartridge valves held within a valve housing. It would have been obvious at the time the invention was made to one having ordinary skill in the art to make the plurality of pilot operated valves of Balzer cartridge valves held within a valve housing, as a matter of engineering expediency.

Claims 5 and 12 are rejected under 35 U.S.C. § 103 as being unpatentable over Balzer in view of Harada et al. Balzer discloses all of the elements of claims 5 and 12, as discussed in the above rejection, but does not disclose that the control switch is located on the lever in a position to be thumb activated.

Harada et al teaches, for a hydraulic system of a utility vehicle comprising a source of pressurized hydraulic fluid connected to a diverter valve (17) selectively positioned to connect the source to either a first (e.g. 6) or second (e.g. 7) hydraulic cylinder; operated by a control switch (12a, 12b); wherein flow between the pressure source and the diverter valve is controlled by a lever (11); that the control switch is located on the lever in a position to be thumb activated.

Art Unit: 3745

Since Balzer does not say if the control switch is in a position to be thumb activated, but Harada et al shows that the control switch can be in a position to be thumb activated; it would have been obvious at the time the invention was made to one having ordinary skill in the art to position the control switch of Balzer on the lever so that it can be thumb activated, as taught by Harada et al, as a matter of engineering expediency.

Claims 6 and 23 are rejected under 35 U.S.C. § 103 as being unpatentable over Balzer in view of Peterson. Balzer discloses all of the elements of claims 6 and 23, as discussed in the above rejection, but does not disclose a diverter activation switch in the electrical circuit, with a change of state of the diverter activation switch required to make the control switch operable.

Peterson teaches, for a hydraulic system for a utility vehicle comprising an electrical circuit connecting a battery (43) to a control actuator (51), which actuates valves; that there is an activation switch (unnumbered, between battery and electrical switches) in the electrical circuit, with a change of state of the diverter activation switch required to make the control actuator operable, for the purpose of locking the valves off.

Since Balzer and Peterson are both from the same field of endeavor, the purpose disclosed by Peterson would have been recognized in the pertinent art of Balzer. It would have been obvious at the time the invention was made to one having ordinary skill in the art to add an activation switch in the electrical circuit between the battery and the control actuator of Balzer, as taught by Peterson, for the purpose of locking the valves off.

### ***Conclusion***

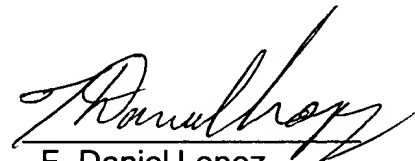
Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Art Unit: 3745

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dan Lopez whose telephone number is (703) 308-0008. The examiner can normally be reached on Monday-Thursday from 6:30 AM -4:00 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ed Look, can be reached on (703) 308-1044. The fax number for this group is (703) 872-9302. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0861.



F. Daniel Lopez  
Primary Examiner  
Art Unit 3745  
May 13, 2003